IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.365 OF 2006
WITH
CIVIL APPLICATION NO.453 OF 2006

Bajirao B.Vidhate ..Appellant

V/s.

The Maharashtra Housing And Area Development Authority and others ..Respondents

Mr.Santosh S.Jagtap, advocate for appellant
Mr.A.R.Patil, AGP

Coram : D.G.Karnik, J

Date : 9th November, 2006

P.C.

1. Heard the learned counsel for the parties.

2. This appeal is directed against the order passed by the City Civil Court declining to grant ex-parte ad-interim relief.

3. O.13, R.3 of the C.P.C.contemplates issuance of notice before passing an ex-parte order of injunction. It also permits the Court to grant an ex-parte injunction without notice for the reasons to be recorded in writing. The issuance of notice is thus, normal rule and when the notice is to be

dispensed with the Court is required to record reasons. The City Civil Court has followed the normal rule and I do not find any reason to interfere with the discretion exercised by the trial Court especially because the appellant had not even produced necessary documents before the trial Court making out a strong prima facie case for grant of an ex-parte injunction. The Court has specifically observed that the appellant had not produced a copy of judgment of Small Cause Court on which the appellant was relying.

4. It is worthwhile that the motion was made returnable on 5th May, 2006. The appellant could have produced the necessary documents and sought hearing of motion on 5th May,2006. It would be inappropriate in November,2006 i.e.after lapse of six months to entertain the present appeal. In the circumstance, appeal is dismissed summarily.

(D.G.Karnik, J.)